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Brexit and Our Land Consultation – Welsh Government

This evidence is written by Dr Ludvine Petetin from Cardiff University, Dr Mary Dobbs and Dr Viviane Gravey, from Queen's University Belfast. Both Ludvine Petetin and Mary Dobbs are Lecturers in Law with expertise in agri-environmental issues and are currently writing a book on Brexit and Agriculture. Dr Viviane Gravey is a Lecturer in European Politics, co-chair of the Brexit & Environment network, which brings together academics analysing how Brexit is affecting the UK and EU environments. All three have and are currently engaging with stakeholders across the UK on the impact of Brexit.

Summary

Overall, this is a forward-looking, reflective document that attempts to respond to the complexities and uncertainties of Brexit, and to reflect on the significance of the rural countryside, land use and farming for Wales. However, the document has a number of gaps and issues on which this evidence focuses.

I. Clarity needed on delineation of schemes and policy recipients.

- More precision is required regarding which components apply to farmers vs. land managers.
- A considered approach should be taken as to which farms and which farmers are covered by the schemes, including facilitating tenants applying for support.
- The delineation between the two schemes is not clear, with the possibility for double-funding – this should be clarified and avoided.

II. Objectives and ‘public goods’ identified remain too narrow.

- Promotion of productivity is important, but should not be considered limited to intensification - resilience is multifaceted.
- Economic resilience is dependent on the resilience of the land and land managers.
- Supporting a shorter, more independent supply chain (including producers of resources) could strengthen economic resilience.
- Other valuable public goods could be included, e.g. enhancing habitats and wildlife, promoting rural communities, promoting food quality/public health and improving animal welfare.

III. A holistic approach with farmers’ buy-in is critical – but not all instruments will deliver it.

- Schemes need to be developed carefully, in a bottom-up, collaborative and multifaceted approach that is appropriately resourced. Integrated, holistic approaches with group schemes are essential.

- Pros and cons of specific policy instruments need to be carefully weighed: education, skills and innovation are very valuable tools under both schemes, but insurance may be unavailable or promote ‘risky’ behaviour and business diversification tools may promote land abandonment.
- A shift towards self-monitoring may create further regulatory burdens and also undermine effectiveness of all instruments.

IV. New policy needs to be small-farms proofed.

- Small farms remain threatened following the proposed removal of direct payments, without it being clear that they will be able to benefit from the economic resilience payments.
- It is essential to consider whether it is worthwhile (economically, socially, culturally, morally etc) to maintain farmers on the land even where they are not economically resilient/viable without continued support beyond the Public Goods scheme, e.g. if the alternative is they are starving, homeless or depressed.

V. UK frameworks and a reformed UK approach regarding the WTO are needed.

- The consequences regarding WTO scenarios need proper consideration.
- The potential changes to TRQs could be significant and need to be seriously considered and accommodated by WG.
- The impact of zero tariffs (if applied) could be disastrous for Welsh producers.
- The English Agriculture Bill aims to recentralise powers regarding caps and constraints on financial support, beyond what is required by WTO law – this needs to be contested.

1) Purpose of farming and its relationship with core values?

Land use and more specifically farming is indisputably multifunctional in nature and it can have significant impacts on the environment, economy, health, culture, etc. This is to a great extent recognised within the consultation document and is welcomed, but some elements are not addressed in any substantial manner (e.g. mental health of those in the rural communities, nutrition or public health more generally). There is scope for Wales to go beyond the more obvious linkages and consider societal values and issues in today’s context, e.g. obesity, high levels of alcohol consumption and depression.

Further, even where farming’s importance is noted, e.g. food quality and rural community, this is not then reflected directly within the public goods – despite the English Agriculture Bill providing for Wales to create public goods relating to rural development. Whilst they might be promoted indirectly through the land management schemes, these should be given their own independent status also. This is addressed further below.

2) First, Do No Harm: Environmental and Health Protection & Common frameworks

Land use has significant potential to impact positively or negatively on the environment, beyond just the land itself. Farming in particular here is key due to the proportion of land farmed in Wales. The document also highlights the need for environmental regulation to be complied with (mirroring to an extent the compliance requirements under the Common Agricultural Policy (CAP)), irrespective of any additional requirements agreed to within the proposed schemes. Similarly, farming whether through its impact on the environment or through its focus on food production has the potential to impact significantly on human health. Indeed, high quality food and production standards link to objectives regarding human health (e.g. nutrition, antibiotic resistance, diseases), environmental protection (e.g. animal welfare, water pollution, antibiotic resistance, diseases, nature conservation), and economic interests (e.g. access to markets, added value). It is essential that the existing standards are at least maintained (Chapter 7).

Currently, there is extensive legislation on environmental protection, as well as human health and consumer protection – including swathes of standards, procedures and information requirements. Large quantities of these derive from EU law, although with significant elements developed by Wales. These must be complied with independently (or potentially lead to committing an offence) and also in order to gain some of the benefits under CAP. The concern is that standards may be dropped post Brexit, despite the declared intention to have a Green Brexit. Even if Wales maintains or increases its standards, what if England does not? What if the approach just over the border is not as environmentally friendly and environmental damage occurs in Wales? Or what if Welsh farmers feel the competitive pressure to drop their standards to challenge non-Welsh farmers or to gain a competitive advantage? The effects on cross-border issues and farms should also be considered. The schemes outlined in the document and suitable green/healthy/local marketing campaigns may assist, but they need to be underpinned by suitable legislation setting a minimum standard for the environment, for food quality and for the information available to consumers.

The answer in part is a need for common frameworks as exemplified in relation to environmental protection (Brennan et al, 2018; Burns et al, 2018) and agriculture more specifically (NIAC, 2018; Gravey & Dobbs, 2018) – essentially matching the approach created by the EU currently, where overarching objectives and frameworks are created that apply across all of the UK, thereby ensuring a universal minimum standard across the UK and less likelihood of a slide in future or indeed a race to the bottom. This would thereby go beyond the proposal for ‘Basic Measures’ in Chapter 7, by extending beyond Wales. A further possibility would be to integrate the non-regression principle, whereby the entirety of the UK would agree to ensure that current standards are not dropped.¹ Further, the governance gaps created by Brexit (e.g. the loss of the role of the Commission and the ECJ)

¹ The UK White Paper on the Future Relationship Between the United Kingdom and the European Union commits to the non-regression of environmental standards.

need to be countered to ensure effective compliance. Adequate resources, monitoring and enforcement would be essential to this.

Having the base standards within a suitable regulatory regime with effective governance mechanisms then provides a springboard from which to aspire more highly and develop broader incentives linked to land management schemes and especially public goods.

3) The consequences of the removal of direct payments

The removal of direct payments in Wales (and England) constitutes a tremendous change in agricultural policy – direct payments have been a tenet of the EU Common Agricultural Policy (CAP) since the mid-1990s. The agricultural transition period (up to 2027) is crucial for farmers to adapt to the Welsh agricultural policy post Brexit after the end of CAP payments and become more productive and resilient. The top 20% of farmers will hardly feel the change in policy since they are already productive and resilient, whilst the 50% of farmers in the middle are likely to succeed in moving away from direct payments to environmental payments as they become more business minded and profitable.

However, struggling farms will find the change in the support system particularly difficult. Many Welsh farms are currently profitable solely because of CAP direct payments. They also have limited ability to adapt and become more profitable due their limited finances available for investment, as well as the size and nature of the farms. **It is likely that at least the bottom 30% of Welsh farms that struggle or only survive because of the receipt of BPS could disappear.**² Consequently, proper support (financial and beyond) will be needed if farmers are to be kept on the land. Although re-wilding can be valuable, generally speaking land abandonment is not desirable, small farms and traditional farming in particular can contribute to biodiversity, and pushing farmers out of farming may have wide-sweeping negative social and economic impacts (Petetin and Dobbs 2018b).

4) The Land Management Programme – towards a holistic and integrated approach

The programme aims to adopt a holistic and integrated approach that acknowledges the broad and multi-faceted contribution of land managers to Wales with the goal of building a more circular economy that would increase the efficient use of natural resources and reduce the amount of waste produced by improving the utilisation of by-products in line with the holistic/joined-up approach adopted under the Well-being of Future Generations (Wales) Act 2015 (FGA 2015) and the Environment (Wales) Act 2016.

² See comments made by Ludivine Petetin at the Game and Wildlife Conservation Trust All-Party Parliamentary Group in March 2018 in relation to English farms, <https://www.gwct.org.uk/policy/appg/march-2018/>; in the Farmers Guardian, <https://www.fginsight.com/news/news/defra-makes-decision-to-let-quarter-of-uk-farms-disappear-57116>; and in UK Business Insider, <http://uk.businessinsider.com/quarter-english-farms-bankrupt-after-brex-2018-4>.

The two components of the Land Management Programme that are the Economic Resilience scheme and the Public Goods scheme parallel the two main strands of funding present in the Agriculture Bill under Clauses 1.1. and 1.2. This is most likely undertaken with the aim of maintaining similarities with the English framework to ensure the receipt of financial support post Brexit and ensure trade compatibility across the UK. However, the Welsh programme is more ambitious and follows the line of more ambitious, holistic and integrated Welsh policies and pieces of legislation including the FGA and Environment (Wales) Act.

The resilience and sustainability of natural resources, sustainability, biodiversity (including genetic diversity), animals including ‘livestock’ are key aspects of the document. During the implementation of the new policy, care should be taken to **avoid silo-ed or piecemeal approaches** in order to truly embrace the concept of sustainable management of natural resources under the FGA 2015. Principle 2 also crucially identifies food production as a central tenet of the future programme. This is a much welcomed addition in contrast with the English Agriculture Bill. This enables land managers to keep playing a vital role in communities through their participation in the economic life of rural areas and contribute to guaranteeing food security within Wales and the rest of the UK. The UK is one of the least food secure countries in the EU. **Food production should be maintained and encouraged.**

A. Which Farmers?

The application of the programme will be wider in scope than the current CAP to include all land managers, i.e. farmers but also ‘foresters and any other activity drawing on non-urban land to produce goods and services’ (page 2). However, the document sometimes encompasses farmers within the concept of land managers and sometimes addresses them separately. It makes the text quite complex and difficult for farmers and their advisers to understand what applies or not to them. Further, it feels that the interests of farmers are lost in this wider focus on land managers. Treating forestry, agriculture and agro-forestry similarly might result in the needs of farmers no longer being heard considering the wide-ranging interests involved. This should be avoided by making sure that each type of land manager receives the support they need due to the different supply chains involved and their different characteristics and mechanisms. A one-size-fits-all approach just will not do.

We support the five principles set out in the Consultation. For example, principle 1 of the Land Management Programme aims to maintain land managers on the land to produce various outcomes to society, whilst ensuring renewal in rural areas and avoiding land abandonment. The latter aspect could have been strengthened more in the consultation. **Generation renewal** is central to ensuring the perennity of Welsh farming since the average age of farmers across Wales is 61.2 years old.³ In particular, concerns should be had to the interest of the forestry industry (including from abroad) to invest in cheap abandoned land to plant trees. This transformation to the Welsh landscape could be eased by the receipts of

³ Welsh Agricultural Statistics 2016. See <https://gov.wales/statistics-and-research/welsh-agricultural-statistics/?lang=en>.

funds under the Land Management Programme. Further, once woodland exist it is incredibly difficult under the current planning system to return the land to farming use. Retaining farmers on the land should be considered a key public goods whilst ensuring generational change.

As to tenants and their relationship with landowners, it is essential that WG puts in place measures that will enable tenants to take up both schemes. Further, WG should also ensure that landowners are involved during the decision-making process for the schemes. Communication between the different parties, including the tenant and landowners should take place right from the start to ensure that all parties are informed. It may be appropriate to provide incentives to landowners with tenants to promote the schemes and also incentivise landowners to rent their land to tenants that undertake proactively to provide public goods.

B. Which farms?

Principle 5 creates the universalism of access to the new schemes created by the Land Management Programme. This appears to be a turning point in adopting a holistic approach to include within the schemes' different types of farming, including small-holdings, agro-ecology, organic etc... However, this is not obvious from the later content of the document.

Despite principle 5, another aspect of the document that adopts a one-size-fits-all approach is the **absence of focus on small, family and hill farms**. Their protection is crucial since they are the glue of rural communities. Not only do they contribute to the economy via their produce and tourism, but they also contribute widely to the culture, society and environment. These farms can prove 'fundamental to the development and maintenance of biodiversity – including genetic diversity of crops and livestock – and thereby to agri-sustainability, environmental sustainability and food security on a national and global level' (Dobbs et al, 2018b). **Neither hill, family nor small farms receive adequate focus in the document.**

A clear policy distinction is drawn between **urban and non-urban farming**, thereby distinguishing between urban and non-urban areas. The document is beneficial to rural areas and provides them with specific and dedicated support, which they need. However, it deprives peri-urban and urban farmers from receiving support whilst they can indeed contribute to the production of food and public goods. The policy explicitly focuses on land to 'secur[e] the future of Welsh farming' and thereby all categories of farmers should be considered.

This begs the following questions: How will the actual Welsh Agriculture Bill and implementing documents follow principle 5? Will there be an inclusive, universal approach, whilst still differentiating according to the nature of the farms and their needs? Would urban farms or micro farms be included?

Further, by stating that not all farms will be 'economically resilient' (para 5.18), WG appears to already have decided that those that cannot be effective and productive will have to either produce environmental outcomes or more radically will disappear. This would be a dramatic change in the Welsh countryside and such consequences should be assessed.

Further, who will make the decision that farmers are no longer ‘economically resilient’? Will it be WG or will it be the market conditions?

C. Relationships between the schemes

Land managers should be able to avail of support under both schemes, but there is a need for clarity as to the boundaries between the schemes. Double-funding for the same actions or objectives should not be available.

On multiple occasions in the document, the thin line between what is covered in the Economic Resilience scheme and the Public Goods scheme becomes quite blurred. On pages 29, 30 and 33, it is mentioned that the delivery of public goods under the Economic Resilience scheme could be rewarded. In particular, on page 33 it is clearly stated that one option for diversification includes the production of public goods. If public goods are indeed going to be rewarded in the Economic Resilience scheme, it would benefit farmers that will participate in both schemes and put at a disadvantage farmers who can only contribute to one scheme. and would result in double funding. Further, para 5.16 suggests that businesses should ‘be able to demonstrate potential for improvements in their social and environmental resilience as a consequence of improved economic resilience’. How would this be achieved? What would be measured? Who would be excluded? **It is unclear how WG intends to differentiate between the actual two schemes and how support will be split between the two schemes. Double funding should be avoided and clarity is required.**

Training, knowledge exchange, skills development and innovation should become central pillars under both schemes. Farmers need to be more business minded and for that they need training and support. Farming Connect should receive more funds to enable farmers to receive more advice and training be extended. Farmers may need very practical help, such as agricultural support workers, to facilitate them taking time off to undertake relevant training/studies.

Working closely with civil society organisations, such as Game and Wildlife Trust Cymru etc, that have tremendous knowledge and expertise would improve the quality and breadth of support and training available.

Infrastructure and capital investment must be made available under both schemes, not just the Economic Resilience scheme, to enable all farmers to transition from the CAP to a Welsh agricultural policy and to benefit from crucial equipment and investment to strengthen their business.

It is suggested in para 8.11 that the focus will be on the Economic Resilience scheme ‘in the early years to support land managers to respond to the post Brexit environment’. The choice of prioritising the Economic Resilience scheme in the aftermath of Brexit is sensible since it would help farmers to cope with the financial and economic uncertainties. However, **not adequately resourcing the Public Goods scheme could lead to the disappearance of farms that could have delivered public goods and could overall be detrimental to environmental protection.** The costs of establishing both schemes (including assessors, advisory teams and lawyers), the relevant contracts and applicable baselines between farmers

and WG will be huge. It will be the same for monitoring activities. WG must ensure there will be sufficient funds left for farmers under the schemes to actually deliver public goods. **Funds should not be entirely spent on setting up the schemes.**

Overall, one core consideration is also clearly the very nature of Welsh land and farms, e.g. their small size, heavy dependency on CAP payments currently, significant focus on sheep and cattle, and the high degree of uplands and less favoured areas. The impact of an annual budget under a Welsh agricultural policy against the multi-annual budget of the CAP will lead to more uncertainty for farmers and a reduced ability to be forward looking in their business and environmental approaches.

5) Survival of farming and *economic* resilience

It is important to note firstly that farm resilience is a broad concept, which goes beyond *economic* resilience, and also includes key environmental aspects that improve *land* resilience such as improving soil health, nutrient retention etc. Similarly, it also encompasses resilience of the land *managers* themselves, e.g. their mental health, cross-generational support or social supports. This highlights the need for a holistic approach that emphasises sustainability and resilience more generally, rather than simply the economic aspects. Whilst elements are promoted by public goods, directly and indirectly, and the distinction made in the document presumably relates in part to the nature of the controls over different types of funding, nonetheless there is not the equivalent level of support and the approach taken risks over-emphasising economic resilience to the detriment of other forms of resilience.

A. Issues around Economic Resilience

As noted in section 2, a substantial number of Welsh farms will be financially endangered with the removal of CAP. Whilst the public goods scheme will provide some financial support, it is unlikely to be sufficient in itself and therefore some basic payment (by whatever name) will be required. Supporting less-endangered land managers may also enable greater capital investment and innovation that link to public goods, through insulating them from some risk.

These payments could be targeted to specific activities, all of which essentially promote productivity – but productivity should not simply be considered as intensification, but also encompassing sustainability, efficiency and quality (reflected in paras 5.28 & 5.29). There is the linked concern that the consultation document reflects DEFRA’s sustainable intensification policy (as with NI DAERA’s framework proposal), without considering the characteristics of the Welsh countryside.

The 5 areas of support noted in the consultation document are all valuable to developing economic resilience. Area 1’s focus on markets will clearly be challenging and depend significantly on the future relationship with the EU, as well as potential trade deals internationally. Important for Wales will also be whether the UK agrees to reduce standards for imports or enable a flood of cheap, poor quality imported produce – impacting on

competition within the internal UK market. Similarly, a common UK framework on standards for agricultural production and the environment would help ensure competitive fairness, whilst avoiding a race to the bottom. A further consideration for Wales would be through developing the linkages between producers and the local communities/population, which could bolster the internal market. Cooperatives noted in para 5.25 could also help ensure a fair price for farmers. Regarding supporting improved products, depending on the nature of the quality of the product, this could alternatively be achieved by the public goods scheme.

Whilst Area 2's broad interpretation of productivity is welcome, it does beg the question of whether this should not count as a public good instead, e.g. conservation of natural resources or sustainability. Double-funding remains an issue and perhaps a distinction should be drawn depending on whether the primary purpose of the investment is to increase productivity or to promote a public good? Paying for a public good does not exclude the possibility of paying for an initial capital investment to shift towards that approach alongside paying for an outcome.

Within Area 3, whilst diversification is an important mechanism to promote economic resilience, again overlap with the public goods is noted. There is also some danger that by promoting extensive diversification, this may eventually lead to some land abandonment as land managers discover that alternative activities are more financially lucrative. More generally, one mechanism might be to facilitate or encourage quasi-communal farming whereby farmers collaborate more to help farm their own land, freeing up further time and resources for other income-generating activities.

Area 4 encompasses the idea of insurance amongst others. Whilst this could play an important role, it suffers from a number of limitations: 1) it may not even be available to farmers at all or if deemed too 'risky'; 2) farmers may not be able to afford to pay the premiums; and 3) insurance can lead individuals to taking greater risks in the knowledge that the insurance may protect them, e.g. environmental or human health risks. Developing environmental and agricultural sustainability and resilience is more important, and the Welsh Government need to be ready to step in to deal with any crises, e.g. providing feed, finances, restricting movement of animals etc as required.

Area 5's focus on knowledge exchange, skills and innovation are also noted across the other 4 areas and will be relevant to facilitating some public goods. Care needs to be taken not to double or even triple fund, but this is still a legitimate and valuable objective in and of itself – provided that it feeds into positive land management in some fashion.

Para 7.9 highlights an important criterion for economic resilience support – it cannot be 'at the expense of broader outcomes, particularly relating to animal health and the environment'. This therefore should provide a counterweight to for instance increased productivity, market access and diversification.

Risk management should be strengthened and is essential to any future scheme, in particular with identifying methods to answer to emergencies, e.g. foot and mouth, BSE, bovine TB and other outbreaks. Specific funds should be made available to assist farms in dealing with the 'next big farming crisis' when and where relevant.

Linked to the concern regarding double-funding, there is also the question of whether the funding will be directed to the provision of relevant services overall or directly to individual farmers that apply. For instance, para 5.45 indicates that the government ‘will further invest in the adoption of precision technology and techniques by businesses’ – how much funding will go to the individual businesses/farms and how much to the technology or skills providers/trainers? It might be more efficient to hire a trainer and purchase a range of equipment that is then loaned out to the relevant farms/businesses.

B. Temporality and conditionality of the scheme

Paras 5.16-5.18 together give a deeper insight into the potential thinking underpinning the Economic Resilience scheme – that any funding should only be a temporary measure enabling investments that will either facilitate a shift towards public goods or increased profitability, on an individual farm basis or within a locality/supply chain. This is confirmed in paras 8.11-8.12 noting that Economic Resilience will be mainly used for transitioning post Brexit, with the main funding focus later being public goods. Thus, the support is expected to ‘be conditional on a credible business strategy, assessment of viability and potential for a return on investment.’ It must be ‘based on a business justification, supporting small-scale changes in production through to major infrastructure investment within the supply chain.’ Further the section concludes by noting that not every farm business may be economically resilient and that is one reason why there is also the Public Goods scheme, i.e. some farms may need to shift entirely towards public goods. It raises the real possibility that despite the existence of the ‘economic resilience’ payment scheme, a large proportion of those 30% of farms at risk if the basic payments are cut may not survive. This is a significant and concerning development, highlighting at the very least the increased importance of the viability of the Public Goods scheme and the need to take a broad approach to its scope.

The temporality and conditionality of the scheme is highlighted also by para 5.48, which indicates that the investments ‘will be designed to enable a step change in the opportunities, productivity and resilience of businesses in Wales to assist them to be competitive. They will be outcome focused investments based on a viable business case, rather than a guaranteed income stream.’

C. Beyond the Economic Resilience scheme

Whilst it is important to help land managers and farms become as competitive as feasible (whilst meeting other valuable criteria such as sustainability and high quality products - e.g. para 7.9), it is also important to consider whether it is worthwhile for Wales and society as a whole to continue to fund land managers to stay on the land even if not economically viable as a business. Even if not producing a public good (or insufficiently as to fund the continued land management), would paying land managers be worthwhile if the alternative were to pay them social welfare? If the alternative were to make the land managers homeless? It is important to bear in mind that these individuals may not have any pensions, savings or

alternative sources of income, especially considering the age of many farmers in Wales. This is an economic question, but also a social and moral one.

D. Supply chain aspects

A concern arises over the lack of specificity in the consultation document. For example, para 5.15 states that ‘we will invest in Welsh businesses involved in primary production, processing and manufacturing’, which are clearly crucial to a resilient Welsh food supply chain. However, it also states that it will provide ‘support for other businesses critical to the wider supply chain’ – it is unclear how wide the scheme would apply, e.g. could supermarkets or restaurants benefit from such funds? What form would such payments take?

The support for the extended supply chain links to an important element that appears to have been largely neglected: what of guarantees of resources? Provision of feed is extremely important for farmers, highlighted by the negative impact of the hot summer on the availability of silage⁴ and previously by snow. This is about availability in Wales, access to farms, cost, regularity of supply etc. Supporting local, independent supplies of resources for farms would be an important step to ensuring economic resilience, whilst also promoting those suppliers and thereby circulating further funds within the community.

Short supply chains should be promoted, e.g. with farmers directly selling to the public/farmers offering to the public to pick fruits and vegetables themselves/some processing on the farm itself.

6) Towards public money for public goods?

The public goods laid out in para 6.15 are all welcome. They stretch beyond purely environmental to include also heritage and recreation, which can be an important role for the land. Financially supporting farmers for outcomes above regulatory compliance (Parameter 5, Public Goods scheme) is also a welcome improvement and reflects the application of the polluter pays principle. However, to prevent a race to the bottom the current obligations set under cross-compliance should be maintained and improved to ensure the existence of a regulatory floor, baseline.

The goods outlined also indirectly serve a range of other interests, e.g. public health. However, there is scope for further goods to be encompassed directly:

- a) *Rural communities*: Referred to within the consultation document (e.g. 2.12) and also provided for by the English Agriculture Bill for Wales (Schedule 3, Clause 1) is the potential to promote the rural community via land management. Rural

⁴ <https://businesswales.gov.wales/farmingconnect/posts/feeding-livestock-effectively-winter-following-recent-drought-conditions-and-forage-shortages>; and <https://businesswales.gov.wales/farmingconnect/posts/welsh-farmers-urged-plan-now-prevent-winter-feed-deficits>. For comparison, Ireland: <https://www.teagasc.ie/news-events/news/2018/drought-impact-farm-income.php>; and <https://www.msn.com/en-ie/finance/news/why-the-quality-of-first-cut-silage-crop-could-pose-big-issues-this-winter/ar-BBOOUm8>.

communities across the UK will be affected negatively by the loss of pillar 2 of CAP and already are struggling, e.g. mental health.

- b) Generational renewal/land abandonment: Reflecting Principle 1 of the consultation document and the need to address the ageing population, as well as the aim to avoid land abandonment and neglect of the land, there is need to ensure that individuals continue to become land managers and specifically the younger generations to ensure long-term continuation. Whilst this is noted in para 5.57 in the context of Economic Resilience, this could be a public good instead. Family farms could also be supported in this context (NFU Cymru, 2018).
- c) Public health, food security and food quality: New objectives could be introduced, such as those relating to public health (including obesity, antimicrobial resistance, alcohol consumption etc), food security and food quality (please see further sections 1 and 2). Food production is not a public good but ensuring that the food available to consumers is of good quality and there is enough of it for all should be.
- d) Improving the delivery of sustainable, greener practices and resources conversation: including the management of land in a more sustainable way (including for future generations), using agroecological principles or organic farming. As noted in the consultation document, this may lead to added benefits such as nutrient retention. Enhancing habitats and wildlife *rather* than simply creating new ones should also be considered.
- e) Promoting environmental and landscape resilience: considering the extreme weather that Wales has encountered over the last 12 months, extreme climatic events (including drought) should be placed at the heart of public goods.
- f) Diversification of crops/animals: including their genetic diversification and the use of old, traditional lines could be promoted as a public good – providing both variety and resilience in the case of diseases or environmental changes for instance.
- g) Raising the bar for animal welfare: increasing animal welfare standards is crucial to the future of Welsh farming.

In developing these elements, a key question is to what extent collaboration between farmers/land managers, other stakeholders and the regulators could and should occur. Generally speaking, deep collaboration across the levels, disciplines and different stakeholder groups offers considerable advantages (Petetin and Dobbs, 2018a). As discussed in the context of NI (Dobbs et al 2018a), collaboration has the potential to help design appropriate

objectives, ensure viable (tailored) schemes and increase buy-in. It has a particularly significant role to play also in the context of group schemes (see below).

However, it poses risks. In particular, there is the risk of regulatory capture and it can be linked to the potential misuse and abuse of self-monitoring/self-regulation. It is essential that the *public* nature and common good be reflected upon continuously, rather than allowing private interests to derail the objectives and principles reflected in the document (or developed subsequently). Similarly, it is essential that adequate resources be provided in order to ensure not merely the implementation of the schemes but also their independent monitoring and enforcement. Adequate incentives and deterrents must be present if behaviour is to be changed.

Para 6.10 states that payment for public goods will be based upon ‘the value society places upon them’. This could be quite problematic if there are more pressing issues that ought to be addressed but the public is not aware of them. Placing the public on a higher level of input than farmers could result in the low uptake of the schemes and ultimately their failure. Ensuring that schemes are co-designed is crucial.

The other main point to note here relates to the focus on ‘outcomes’. Whilst this is generally desirable and is something to be promoted, nonetheless as acknowledged in the consultation document sometimes these outcomes may take decades or longer to come to fruition and there are no guarantees that they will (fully) materialise despite the best efforts. Or indeed, perhaps the outcome is an on-going or periodic outcome. This raises the difficulty of considering when a land manager should be able to avail of the financial support and what they need to demonstrate to do so. Farmers cannot afford to invest considerable resources (time, money, energy, natural resources etc) into a project that is high risk and long-term – small-scale farms that are barely surviving economically, even less so. Consequently, they may require more than merely public goods support and pay-outs when outcomes are delivered: it may be appropriate to provide staggered financial (and other) support for procedural steps, agreed milestone and specific tasks completed – these can be developed through collaboration.

7) Group schemes: ‘Collaboration and delivering at scale’

The proposal indicates a welcome desire to take a more collaborative, holistic approach that looks beyond individual schemes in order to plan and implement the schemes more effectively (e.g. para 6.26). Such a collaborative approach would help develop schemes applying to broader landscape and catchment areas and potentially entire ecosystems with a catchment to coast approach, whilst still enabling variations across the farms/land. For example, Welsh Games and Wildlife Conservation Trust’s ‘Farmer Clusters’ could be rolled out across Wales.⁵

One potential way to incentivise such an approach would be to provide additional payments where additional land managers/stretches of land join an individual large-scale

⁵ <https://www.gwct.org.uk/farming/advice/farmer-clusters/>.

scheme. Thus, ‘all farmers/land users in a specific catchment area might obtain further bonuses where there is large scale buy-in to the scheme, with increased bonuses for every individual/farm in the group that complies. This would be particularly useful in the context of habitats, water quality or air quality for instance and links in to the ideas of natural resources as common goods or public goods - with access for everyone, but also responsibilities’ (Dobbs et al, 2018a). Authors such as Ostrom (e.g. Ostrom, 1990) have looked at this type of mechanism to incentivise protecting public goods and investigations have been undertaken as to their potential effectiveness in NI.⁶

The idea of co-design or co-production, whether used in this context or regarding other elements of the schemes is to be welcomed. It could be especially useful, where land managers could come together to identify preferred options if a choice of schemes exists. It also increases the likelihood of ‘buy-in’ and provides extra moral imperatives to comply if one’s peers are doing so. This should be fostered as much as feasible in relation to the schemes, whilst still ensuring that the schemes and their components are objectively acceptable and that regulatory capture does not arise.

Part of the benefit of a cooperative or large-scale scheme is that self-monitoring, self-reporting and self-enforcement can take place, i.e. effectively self-regulation, but there is no guarantee that this will be effective or that standards will not slip. Strong controls with significant penalties for non-compliance will still be necessary. For this, adequate monitoring by independent experts and effective sanctions are required (Brennan, 2016) – this includes not merely regulatory/criminal penalties where offences are committed, but also the loss of rewards where milestones or outcomes are not achieved or potentially where procedures are not followed.

8) Reducing red tape?

A key aim of the document is to simplify and reduce red tape. This is crucial but it will not necessarily happen if conditions within agreements are imposed on farmers rather than co-produced between the farmers/farmers at landscape level and WG. The baselines, targets and outcomes must be mutually set by communicating with the farmers. One of the central reasons why Glastir is not resulting in the desired outcomes/not as successful as wished is because the conditions placed on farmers are just not achievable or would result in the opposite desired outcome.

Schedule 3 Part 3 of the Agriculture Bill provides quite broad-ranging obligations for the collection and sharing of data. These additional requirements on farmers will not ease their day-to-day work and create a different kind of red tape – again more crippling for small farms.

9) Trade post Brexit

⁶ Annabel Sharma is a PhD student (submitting very shortly) at Queen’s University Belfast who has undertaken empirical analysis for her thesis regarding the use of such tools relating to diffuse water pollution.

Under the WTO scenario proposed in the consultation, **the assumptions made about retaining tariff rate quotas (TRQs) from third countries are mistaken.** This will not be up to the UK alone. It will depend on what the relevant interested parties, such as New Zealand, will make of the change to TRQs done by the UK and more generally of amendments to UK schedules. TRQs provide lower tariffs on limited quantities of goods imported into a country. They provide third countries access to a national market on preferential terms.

Post exit the UK can continue to trade on the basis of its proposed schedules regardless of certification. For example, the EU has not certified its schedules since 2004. Nonetheless, at some point the UK will have to certify its schedules, requiring the consensus of all WTO members. Such a certification process will impact on the level of tariffs applied to imported products. The UK will be forced via consultations with all WTO members to diminish its tariffs. For instance, when Russia joined the WTO it was forced to reduce its tariffs on agricultural products from around 50% on average to around 6.5%. Political pressure will be placed on the UK to behave similarly. The impacts of the changes to TRQs and tariffs on land managers ought to be seriously considered and accommodated by WG.

A scenario of unilateral trade liberalisation would be disastrous for British agriculture because zero tariffs would be applied across the board whilst tariffs on British products would have to pay tariffs to trade with the EU and the rest of the world. Within the UK, British products would be put at a disadvantage since they would be most certainly more expensive than foreign products. Unfair competition would ensue between British and imported products. This situation would place UK farmers in a weak position unless UK Government/Treasury funds adequately farmers to cope with such international pressures.

10) Centralisation of powers and budgetary controls

Any Welsh agricultural policy needs to be developed in full awareness of the context – many of which elements are indeed reflected in the consultation document and above. However, there are two further key related restrictions that need to be considered.

Firstly, there are the legal controls imposed on Wales. These are through international environmental and trade law, especially the WTO and its Agreement on Agriculture, and any potential Trade Agreements with external parties, which the UK as a whole must comply with. However, there are also further obligations imposed on the devolved administrations, by decisions taken effectively by England, such as those linked to the UK Customs Act and Trade Bill. Crucially here, Wales must also look to the English Agriculture Bill, which contains highly relevant provisions.

The Agriculture Bill is targeted mainly at England, but with considerable impacts for Wales, Scotland and Northern Ireland. In some respects, it proposes increasing powers in Wales' hands via Schedule 3, e.g. regarding marketing standards or through enabling Wales to create new financing schemes for a range of legitimate objectives. However, the Agriculture Bill has also proposed that the Secretary of State for Agriculture could determine the caps for different forms of support across Wales, Scotland and NI also – despite this not

being required by WTO law and despite this being a devolved power (WTO law only requires a cap for Amber box support, not the Green or Blue boxes; WTO law does not engage either with how the Amber cap might be divided within a State) (Dobbs et al, 2018b) (for more on the WTO Agreement on Agriculture and the application of the boxes post Brexit, please see Petetin 2018). This is a major legal power that would effectively enable England to determine the policies in the devolved administrations and result in a recentralisation of powers. The Bill also indicates that the Secretary of State (SoS) will have the conclusive decision as to which box specific support falls within, i.e. its classification. Part 7, clause 26 of the Bill gives sweeping powers to the SoS to create regulations that **recentralise the financial support for farmers and the design of support schemes across the UK** and appears to contradict the devolution settlements (for further details on Part 7, clause 26 of the Bill, please see (Dobbs et al, 2018b)).

Consequently, as with NI (Dobbs et al, 2018a), Wales needs to fight for 1) ‘control over the caps for Green and Blue box support at the very least’, 2) ‘input into the Amber box caps’, and 3) a voice in the classification of any support.

Secondly, on a very practical note, and as recognised in the consultation document, Westminster controls the purse strings. Currently funding is provided under CAP and directed to the individual farms within the devolved administrations. The money may come from Westminster directly and indirectly, but it is ring-fenced for agriculture and for rural development. However, Brexit will lead to CAP not applying and instead there will be reliance on Westminster for funding. Funding promised to farmers has been guaranteed until 2022, but the question is what happens after that? Will there be further ring-fenced money? Will any such monies be similar to what is currently available? Will Westminster attach conditions? Or will it be part of the block grant and then be competing against health, education, social welfare etc for its share of the pool?

The default would seem to be the block grant under the Barnett formula. This would not be advantageous for Wales, as it would most likely lead to a decrease (a drop of around 50% of funds has been suggested) in the money being granted to Wales. Further, if that money would not be ring-fenced – it could be used for other objectives, which might be desirable and indeed necessary. However, if desired to be used for agriculture and land management this might lead to extra challenges, as any allocation of funding will now need to be justified within Wales to the population and therefore constituents (para 4.30). This might, however, be the extra incentive needed to introduce and implement the public goods approach, as this helps demonstrate the value of farming/land management to the population.

However, Secretary of State Gove announced recently that he is seeking to review how funding will be assigned regarding agriculture, with representatives of all devolved administrations to be involved in the review.⁷ If implemented, it is likely that this would lead to further ring-fencing, with the payment being parallel to the block grant. Further, there are hints of an alternative approach that looks to the needs and objectives of the different devolved administrations – reflecting the suggestions in para 4.29. This indicates that a more tailored division of money may be made, where the devolved administrations can make

⁷ <https://www.gov.uk/government/news/fair-funding-for-farmers-across-all-parts-of-the-uk>.

claims for X amount of money on the basis that it is needed to fund new schemes in light of the relevant objectives, nature of the farms, environmental conditions etc. Funding will not be limitless though and will most certainly decrease over time, so the question is whether the devolved administrations will be able to establish and justify their relative needs effectively. This will be in part related to the efficiency of the schemes, but also the very acceptability of the schemes in the eyes of Westminster.

Thus, whether under the legal restrictions or the practical restrictions, the impact is potentially much the same: Wales need to create a policy that has acceptable objectives (in the eyes of Westminster/its population) and demonstrate that it will be good value for money, in order to obtain the funding/support in applying the funding to land management and in order to obtain SoS approval for such schemes in the context of the Agreement on Agriculture and WTO law.

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Petetin, Dobbs and Gravey
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